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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/955,296	09/19/2001	Shih-Chiang Tsao	06720.0068	8161

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EXAMINER	
PHAN, MAN U	

ART UNIT	PAPER NUMBER
2616	

DATE MAILED: 08/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/955,296	TSAO ET AL.	
	Examiner	Art Unit	
	Man Phan	2616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *02 June 2006*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-7 and 10-15* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-7, 10-15* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

1. This communication is in response to applicant's 06/02/2006 amendment in the application of Tsao et al. for a "Method and apparatus for scheduling for packet-switched networks" filed 09/19/2001. This application claims Priority from Provisional Application 60253930 filed 11/30/2000. This application is a Request for Continued Examination (RCE) under 37 C.F.R. 1.114 filed on June 02, 2006. The proposed amendments to the claims have been entered and made of record. Claims 8-9 have been canceled per Applicant's request, claims 1, 4, 5, 7, 10, 12-13 has been amended, and new claims 14-15 have been added. Applicant's arguments to the pending claims have been considered but are not persuasive, and will be examined as discussed below. Claims 1-7, 10-15 are pending in the application.

Claim Rejections - 35 .S.C. 112, first paragraph

2. Claims 1, 5, 10, 12, 13 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claims contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The limitation "*allocating a predetermined amount of bandwidth*" as described in the claims has no support in the disclosure.

3. Newly added Claims 14-15 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claims contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The limitation "*allocating a second predetermined amount of bandwidth*" and "*recalculating the accumulated bandwidth*" as described in the claims has no support in the disclosure.

Claim Rejections - 35 USC ' 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later

invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claims 1-3, 6, 7 and 10-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fawaz et al. (US#6,654,374) in view of Dravida et al. (US#2002/0075875) and further in view of Mizuhara (US#2002/0012348).

In so far as understood, with respect to claims 1, 6, 7 and 12, the references disclose a novel system and method for scheduling packets in packet networks, according to the essential features of the claims. Fawaz et al. (US#6,654,374) discloses in Fig. 6 a functional block diagram illustrated the packet classification and scheduling of data communications comprises: receiving a plurality of data packets, each including classification information; classifying each of the data packets with one of a plurality of service level agreements (SLAs) corresponding to the classification information for each packet (*identify packet's flow and classify the packet*). Fawaz further teach the step of classifying the packet based on classification information associated with the data packet, and storing the data packet in one of a plurality of queues, and the one queue corresponding to the classification of the packet (Col. 7, lines 29 plus and Col. 14, lines 17 plus).

However, Fawaz does not disclose expressly the step of placing packets in priority order of queues. In the same field of endeavor, Dravida (US#2002/0075875) discloses a method of packet handling, scheduling and flow control at a network element includes receiving packets on input links coupled to the network element, each packet having a quality of service (QoS) class indicating a service priority ranging from highest (1) to lowest (N). Received packets for

each of the QoS classes from 1 to N-1 are stored in a common queue per QoS class while packets received for the lowest (N) QoS class are stored in link queues corresponding to the input links. The packets are transmitted from the common queues and the plural link queues to an output link according to a scheduling discipline ([0008]-[0013]).

However, Fawaz and Dravida do not specifically disclose the flow identifier and priority control method for use in packet transmission. In the same field of endeavor, Mizuhara et al. (US#2002/0012348) discloses in Fig. 2 a block diagram illustrated a configuration of a router device, in which the router device according to the present invention has a flow identifier for detecting a flow of packets (a set of packets having a certain property) input to the device, a flow rate monitor for detecting color information indicating match of actual traffic to a previously defined bandwidth under contract for each flow (Green), temporal violation (Yellow), or complete violation (Red), and a forwarding searcher for determining, from contents of a packet, output line information indicating from which line the packet is to be output ([0018]-[0023]).

Regarding claims 2, 3, Fawaz further teaches a guaranteed QoS in packet switched network, in which packets are classified according to an Service Level Agreements (SLA) by reading the source and destination addresses in the packet (See Fig. 6; Col. 7, lines 29 plus).

Regarding claims 10, 11, they are system claims corresponding to the method and apparatus claims 1-3, 12 above. Therefore, claims 10, 11 are analyzed and rejected as previously discussed with respect to claims 1-3, 12.

Regarding claim 13, This claim differs from claims of Fawaz et al. in view of et al. Dravida et al. in that the claim recited a computer program product for performing the same

basis of steps and method, apparatus of the prior arts as discussed in the rejection of claims above. Therefore, claim 13 is analyzed and rejected as previously discussed with respect to claims 1-3, 10-12. It would have been obvious to a person of ordinary skill in the art to implement a computer program product in Fawaz et al. in view of Dravida et al. for performing the steps and apparatus as recited in the claim with the motivation being to provide the efficient enhancement to a queuing and scheduling packets in communications network, and easy to maintenance, upgrade.

One skilled in the art would have recognized the need for effectively and efficiently establishing connection using queuing and scheduling packets based on classification, and would have applied Mizuhara's flow identifier and priority control in packet transmission, and Dravida's novel use of the queuing packets in priority order into Fawaz's teaching of a method and apparatus for scheduling packets in packet switched networks. Therefore, It would have been obvious to a person of ordinary skill in the art at the time of the invention was made to apply Mizuhara's router device and priority control method for use in the same, and Dravida's broadband system with transmission scheduling and flow control into Fawaz's method and apparatus for interconnection of packet switches with guaranteed bandwidth with the motivation being to provide a method and system for scheduling in packet switched networks.

7. Claims 4, 5 and 14-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fawaz et al. (US#6,654,374) in view of Dravida et al. (US#2002/0075875) and Mizuhara et al. (US#2002/0012348) as applied to the claims above, and further in view of Tsang et al. (US#6,047,000).

In so far as understood, with respect to claims 4-5 and 8, 9, Fawaz et al. (US#6,654,374) and Dravida et al. (US#2002/0075875) disclose the claimed limitations discussed in paragraph 6 above. However, these claims differ from the claims above in that the claims require the feature of calculating an allocated credit assigned based upon the size of packet. In the same field of endeavor, Tsang et al. (US#6,047,000) discloses a packet scheduling system in which credit is allocated to each incoming stream with reference to the onward transmission or otherwise of that stream. Fig. 2 is a block diagram illustrated a packet scheduling, where the data packets are variable in size and wherein each input stream is allocated a share of the bandwidth of the output transmission link, the selecting means comprises means for determining the credit allocated to each input stream, the bandwidth allocated to each input stream, and the size of the head of line packets waiting to be transmitted in each input stream, and means for sorting the head-of-line packets in accordance with the difference between the size of the head of line packets and the allocated credit as a proportion of the allocated bandwidth, whereby the input stream having an allocated credit closest to the packet size as a proportion of allocated bandwidth is selected for transmission. Following transmission of a packet the credit for the transmitted input stream is reset to zero (Col. 2, lines 27 plus).

One skilled in the art would have recognized the need for effectively and efficiently establishing connection using queuing and scheduling packets based on classification, and would have applied Tsang's teaching in allocated credit in packet scheduling system, Mizuhara's router device and priority control method for use in the same, Mizuhara's flow identifier and priority control in packet transmission and Dravida's novel use of the queuing packets in priority order into Fawaz's teaching of a method and apparatus for scheduling

packets in packet switched networks. Therefore, It would have been obvious to a person of ordinary skill in the art at the time of the invention was made to apply Tsang's packet scheduling system, and Dravida's broadband system with transmission scheduling and flow control into Fawaz's method and apparatus for interconnection of packet switches with guaranteed bandwidth with the motivation being to provide a method and system for scheduling in packet switched networks.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The Varma et al. (US#5,859,835) is cited to show the traffic scheduling system and method for packet switched networks.

The Stiliadis et al. (US#6,134,217) is cited to show the traffic scheduling system and method for packet-switched networks with fairness and low latency.

The Kalkunte et al. (US#6,470,016) is cited to show the servicing output queues dynamically according to bandwidth allocation in a frame environment.

The Kalkunte et al. (US#6,891,835) is cited to show the servicing output queues dynamically according to bandwidth allocation in a frame environment.

The Li et al. (US#6,560,230) is cited to show the packet scheduling methods and apparatus.

The Chow et al. (US#6,438,134) is cited to show the two-component bandwidth scheduler having application in multiclass digital communications systems.

The Park et al. (US#6,430,156) is cited to show the traffic control method for providing predictive guaranteed service.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to M. Phan whose telephone number is (571) 272-3149. The examiner can normally be reached on Mon - Fri from 6:00 to 3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wellington Chin, can be reached on (571) 272-3134. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.
Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-2600.

10. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have any questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at toll free 1-866-217-9197.

Mphan

08/14/2006.

MANU. PHAN
PRIMARY EXAMINER